

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
March 1, 2005**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Kenny, Forman

STAFF ATTENDING: Ginsberg, Keating
COURT REPORTER: Wandzelak

The meeting was called to order at 8:01 p.m. by Mr. Damanti, and he read the first agenda item:

Continuation of Public Hearing regarding Business Site Plan #236/Special Permit, Ronald Rainone, d/b/a Noroton Tailors & Cleaners, 1918 Boston Post Road. Proposing to establish a dry-cleaning and tailoring business in the space formerly occupied by a drive-in insurance claims office. The subject property is located on the south side of Boston Post Road, approximately 70 feet west of its intersection with Ring's End Road, and is shown on Assessor's Map #51 as Lot #37, NB Zone. *PUBLIC HEARING OPENED FEBRUARY 1, 2005.*

It was noted that this Public Hearing was originally opened on February 1, 2005 and it must be closed by March 6, 2005. Attorney Chris Krediet of Rucci, Burnham, Carta, and Edelberg was present representing Noroton Tailors and Cleaners. The documents requested at the March 1 Planning & Zoning Commission meeting were given to Planning & Zoning Commission as well as the Gaffneys. Mr. Robert Smith submitted a current Material Safety Data Sheet (MSDS) dated February 2, 2005 and Mr. & Mrs. Gaffney were copied on this. Other documents submitted included: (1) A study done by Mr. Edwin Stevens, Chemical Engineer regarding VOCs as air pollutants versus VOCs which are not air pollutants. It was noted that PureDry does not contain any air pollutant VOCs; (2) An Analytical Laboratory Report which was an analysis of PureDry air pollutant components of which none were hazardous according to this report. They were also not water soluble and were biodegradable within five days; (3) A Deed for Mr. & Mrs. Gaffney's property stated that 1918 Post Road was then being used as a drive-through for GEICO insurance when they first bought the property; (4) Pictures of proposed property and the Gaffney's property were submitted for review. In referring to these pictures, Mr. Krediet explained that there was substantial screening with trees between the properties. There are also no windows on the side of the building at 1918 Boston Post Road facing the Gaffney property. He also explained that the PureDry system used by Noroton Tailors and Cleaners is self-contained and exhaust-free, and that this screening would help this even more.

As far as health and safety concerns, according to the MSDS Report, this PureDry product has a flash point of 325 degrees Fahrenheit and is not a product regulated as a "hazmat" (hazardous material) for the Department of Transportation. Again, it was reiterated that PureDry does not emit any harmful VOCs.

Mr. Robert Smith, Industrial Engineer of Metropolitan Laundry Machinery, who is a seller of PureDry, then explained that test procedures used on the PureDry System fell within the quality

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control limits. He then explained the testing procedure that included using ethanol to mix the chemical and why they could not test it with water. Mr. Spain then asked about this one aqueous sample done, specifically, what does this mean. Mr. Smith explained that PureDry and water do not mix, they are like oil and water, so they must mix it with ethanol instead to do any testing on the product. Mr. Damanti then asked for clarification of this report, specifically, what did the report tell us? Mr. Smith replied that there are a list of Hazardous Air Pollutants (HAPs) outlined on an analytical report, which specifies "BDL" (below detectable limits) meaning that any trace of the product found that is detected below a certain limit is considered to be non-hazardous and therefore not harmful. Mr. Spain then asked if this report was prepared for customers stating that nothing hazardous was found with the product. Mr. Smith replied, yes, this was used when preparing the MSDS Data Sheets and that the federal Environmental Protection Agency determines what types of testing will be used.

Mr. Damanti then asked about the testing for VOCs, specifically for trichloromethane. Mr. Smith then replied that they do a number of "hits" on a product to see how many times they find a trace of this, and that they must show this as an HAP if it is found in the product being tested. Mr. Damanti then wanted to know why there were procedures outlined for accidental spills and disposal if this was not considered hazardous waste? Mr. Spain was also concerned about this. Mr. Smith replied that the PureDry product was found not to contain any HAPs. He also explained that PureDry was delivered in nylon containers to a self-contained machine. There are no leftovers stored in any containers, since all the PureDry product is put into the machine. Mr. Spain then asked whether other solutions will be stored on site. Mr. Smith replied that yes, non-hazardous cleaning solutions would be stored there. Mr. Damanti wanted to know when they would know to order new PureDry Solvent. Mr. Smith answered that the cleaners would see the level go down before they would have to order it again. Mr. Damanti then asked how long Mr. Smith was selling this product. Mr. Smith replied that 35-40 of these machines had been sold by his company. Mr. Damanti asked if there had been any fires or spills reported. Mr. Smith replied that none that he knew of. Mr. Damanti asked why more of them had not been sold. Mr. Smith replied that the PureDry System was very expensive to buy.

Mr. Rainone, owner of Noroton Tailors & Cleaners, stated that the PureDry System takes longer to run and is more expensive also and that this system has no odor or ground contamination. He also stated that he is remediating the current site that he owns in Greenwich since buying it six years ago, and that he had done a Phase I and II analysis and was still remediating. He said that Perchloroethylene was difficult to clean and he would not want to deal with cleaning in if it got into the ground.

Mr. Kenny then asked who prepared the MSDS for PureDry. Mr. Smith responded that it was the manufacturer of the solvent, Niran Technologies, and that all MSDS reports are done by the actual manufacturer of the product. Mr. Kenny then read a paragraph stating "may cause moderate eye inflammation if there was eye contact", slight irritation, etc. The product was tested on animals, namely rabbits. Mr. Smith explained that the "redness of eyes" was not considered an eye irritant, or considered "insignificant" as far as the EPA was concerned. Mr. Kenny questioned any conditions to avoid with this product – specifically PFIB exposure. Mr. Smith stated that there was no chance of having damage done by PFIC, it was not harmful, only under extreme heat conditions. Fire Departments have to know this and always receive the MSDS sheets.

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Mr. Damanti asked about the firefighting instructions and the firewater runoff. Mr. Smith stated that when you are getting a chemical breakdown during a fire, it can be corrosive and that you don't want water like this migrating past the property, since it can be harmful to the ground. The fire departments have "PIGs" when dealing with containment of water containing chemicals and they also must use oxygen and proper gear when dealing with it.

Mr. Tom Golden, owner of neighboring property at the corner of Boston Post Road and Rings End Road, stated his opinion as an engineer that this cleaning establishment would be a "small chemical factory" in the middle of a residential area. It presents hazards to animals also. He is very concerned and aware about chemical problems in this area. He has no problem with a drop-off cleaning establishment, but is against dry cleaning chemicals on the premises. He noted that there are other dry cleaners in this area of town.

Mr. Terry Gaffney, 8 Rings End Road, then began a discussion by stating that he thought the screening referred to by Mr. Krediet was not adequate. His daughter's room required an air purifying system because of her breathing problems. He stated that if a product is carted away by a licensed waste disposal hauler, that this residue is a hazardous waste material. He told the Commission that as far as the MSDS sheets were concerned, they do not have to be prepared by anyone with a technical or scientific background, any officer of the manufacturing company can fill it out based on information given to them. According to Mr. Gaffney, VOCs are emitted from this product.

Mr. Spain felt that the Commission should ask the question: What standard should Planning and Zoning apply to this neighborhood? Mr. Gaffney stated that as a resident of this neighborhood, he does not want this type of establishment in the area. He does not feel it would fit in the neighborhood. Mr. Damanti stated that he does feel that this cleaning establishment fits in with the neighborhood.

Mr. Kenny asked Mr. Gaffney about the VOCs emitted from the Deli and the gas station and whether he could smell these odors.

Mr. Spain quoted from the February 22 letter to the P & Z Commission regarding the bottom residue and the licensed waste disposal company. Nothing in this residue was considered volatile. Mr. Gaffney felt that the VOCs and "hazmats" were two separate items and the spilling and overloading can release VOCs. Mr. Spain answered that there were no volatile materials or vapors in this cartridge and that the emission of unhealthy vapors was most of Mr. Gaffney's concern.

Mr. Damanti then made the statement that was the slight solvent odor any worse than any other odor in the area. Mr. Spain stated that odor from commercial establishments in residential area can always have VOCs.

Attorney Wilder Gleason, representing Mr. & Mrs. Gaffney, then addressed the Commission. Mr. Gleason referred to the Neighborhood Business (NB) Zoning Regulations, Section 602. He said that occupancy by new tenants required a new site plan approval. This is a business adjacent to a residential zone and the Commission needs to protect the immediate neighborhood. He added that all businesses have buffer areas and that the Gaffneys do not have this, and can be exposed to

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noxious chemicals. Since they do not have protection, they cannot be sure of the effect of this chemical. Residential neighbors should not have businesses around them that may be detrimental.

Mr. Gleason then went on to address the angled parking spaces which are illegal and have inadequate back-up. Vehicles only have ten feet for back-up instead of the required eighteen feet. This establishment will be a much more intensive use than the GEICO business, specifically having more employees and more vehicles. The hours of operation have also been increased from those of the GEICO business. GEICO had forty-five operating hours vs. the sixty plus hours that the cleaners would be operating. There is also the possibility that the cleaners will be require more parking and that the existing spaces may not prove to be adequate.

Mr. Damanti then stated that most of the employees for this proposed establishment would not be driving cars, as Mr. Rainone stated, that they would more than likely be taking the Boston Post Road bus from Norwalk or Stamford which stops right in front of St. John's Church across the street. He stated that this location is a difficult site to set up a business.

Mr. Gleason stated that no variances have been obtained for the sixty degree parking, there is no seventy-five foot setback to the building, he questioned the landscaped area, and there should have been a variance request on 25 feet in the back of building. Mr. Damanti stated that this was considered a legal, non-conforming building and that they cannot have a rear buffer. They do not have space in the front. Mr. Gleason stated that this site should have less intensive use, and he used the example of a contractor's office. Mr. Spain mentioned that they did not get a waiver of the required buffer, which is not the same as no variance for parking.

Mr. Gleason continued with stating the existing parking spaces are more of a problem now, since there are no handicapped parking spaces and no second means of egress. Mr. Spain then repeated to Mr. Gleason that this building can never have a buffer as there is not enough room behind the building. Mr. Damanti told Mr. Gleason that there are spaces on Boston Post Road that are usually available during the week for public use and customers for any businesses around there.

Mr. Gleason then commented that the risks are all with the Gaffneys if this cleaning establishment is approved to operate in this neighborhood.

Attorney Jackie Olschan, of Sandak, Hennessey and Greco, representing adjacent property owner Thomas Golden, made the statement that Mr. Golden strongly objects to this cleaning establishment because of the parking problems and the use of potentially hazardous chemicals.

Mr. Chris Krediet, representing Noroton Tailors and Cleaners, said that the parking and safety concerns have already been addressed in an analysis that was done which stated that parking was adequate. There is also the factor that this is a low intensity use, since clients are not in the store for a long time, with the specific hours of operation as stated above.

Mr. Spain wanted to know the status of the Fire Marshal concerns which included a required second means of egress. Mr. Krediet said that his client can change the building to comply with Fire Marshal's concerns and that the architect has already met with the Fire Marshal.

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Mr. Gaffney then stated that he wanted to have someone else look at the Analytical Report prepared for Niran Technologies. This person was a federal employee from the Environmental Protection Agency (EPA) and a friend of Mr. Gaffney's who would be willing to testify for him. Mr. Kenny wanted to know if this person would refute any of the information in the document. Mr. Gaffney replied that he was not sure.

Mr. Damanti then told Mr. Gaffney that there would be another Public Hearing on this on Tuesday, March 8, and that he was to get this report to Mr. Ginsberg by Friday morning and also a copy to the applicant's attorney. He would like Mr. Gaffney's representative to be able to testify at this meeting so that they could ask questions, and that the Commission needed more time to make an informed decision. Mr. Krediet and Mr. Rainone agreed to this extension of the public hearing. Mrs. Forman then made a motion to continue the public hearing to Tuesday, March 8th at 8 p.m. in Room 206 of Town Hall. Mr. Kenny seconded that motion, which was unanimously approved by the Commission. At 10 pm., the Commission then went into its general meeting.

GENERAL MEETING

Informal discussion of proposed boat rack storage area at Pear Tree Point Beach.

Questions regarding required permits necessary to install a kayak/canoe storage rack.

A discussion was held regarding what permits are needed to put more boat storage at Pear Tree Point Beach. The Parks and Recreation Department would like to have some space for boats.

It was stated that the rack apparatus used for storage needs a permit because it is located within the flood zone, and is within 100 feet of Mean High Water. The Boat Club now leases town property adjacent to where the rack is proposed. At this time, canoes, kayaks and dinghy boats are stored on the ground there. Boat club employees are at the Boat Club for security. Slots for these boats would be assigned. Commission members generally agreed with Mr. Ginsberg's opinion that this was not a significant improvement of a Town property which would require a mandatory referral under Section 8-24 of the Connecticut General Statutes. Mr. Damanti asked Mr. Ginsberg to also get Town Counsel's opinion on that. Mr. Ginsberg will speak with Town Counsel, and explain the required permit process to Ms. Swiatek of the Parks and Recreation Department.

It was noted that Commission members had received three draft resolutions in their packets, and had an opportunity to read them over the weekend. Therefore, Mr. Kenny made a motion to waive the reading of the resolutions aloud. That motion was seconded by Mr. Spain and unanimously approved.

Discussion, deliberation, and possible decisions regarding the following:

Resubdivision Application #562-A, Robert & Elizabeth Cole, 865 Hollow Tree Ridge Road.

Proposing to create a new two acre building lot out of the existing lot, served by a driveway from Talmadge Hill Road and perform related site development activities.

Mr. Spain moved to approve the application, Mrs. Forman seconded that motion. All four Commission members voted in favor of the resolution. The adopted resolution read as follows:

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**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
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Application Number: Resubdivision Application #562-A

Tax Assessor's Map #3 Lot #81

Name and Address of Property Owner: Robert & Elizabeth Cole
865 Hollow Tree Ridge Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Wilder G. Gleason
Gleason Hill & Ambrette, LLC
23 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to create a new two acre building lot out of the existing lot, served by a driveway from Talmadge Hill Road and perform related site development activities.

Property Location: The subject property is located on the west side of Hollow Tree Ridge Road, approximately 210 feet south of its intersection with Talmadge Hill Road.

Zone: R-2 Zone

Date of Public Hearing: February 1, 2005

Time and Place: 8:00 p.m. Room 119 Darien Town Hall

Publication of Hearing Notices
Dates: January 20 and 27, 2005 Newspaper: Darien News-Review

Date of Action: March 1, 2005 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
March 10, 2005

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of the Darien Zoning Regulations and all applicable sections of the Subdivision Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted subdivision plans, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.

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- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject property is located in the R-2 Zone. There is currently one house on the lot, and the applicant proposes to create a new two acre building lot out of the existing lot, served by a driveway from Talmadge Hill Road in New Canaan. The new lot will be served by a private on-site septic system and public water supply.
2. Access to the newly created parcel will be from Talmadge Hill Road in New Canaan. The Darien Zoning Board of Appeals granted a variance for this accessway in Calendar No. 56-2004 on October 27, 2004.
3. All of the local emergency services units have reviewed and approved the proposal to establish a building lot in Darien to be served by a road in New Canaan. This includes letters from the Noroton Heights Fire Department, Darien Police Department, and Post 53.
4. The schematic residences shown on the Plan are for general planning purposes only, and are not meant to show a specific house design. The owners of the property might construct a house and other structure(s) that are not the same size or in the same location as the submitted Conceptual Site & Septic System Plan, as long as the structures conform to the applicable Zoning Regulations.
5. A .705+/- acre open space piece of land along the rear of the property is being preserved as permanent undeveloped area. The applicant has proposed placing a conservation easement over this open space, all of which is regulated wetlands area.

NOW THEREFORE BE IT RESOLVED that Resubdivision Application #562-A is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Resubdivision Map of Revised Lot 3, Map 4878 D.L.R prepared for Robert R. Cole Elizabeth H. Cole, by William W. Seymour & Associates, scale 1"=60', dated December 1, 2004.
- B. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- C. Since there is no new road construction, the Commission waives the requirement for submission of a Performance Bond for road construction.

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- D. In accordance with Article IV Section C 1-6 of the Darien Subdivision Regulations, the Open Space shall be subject to an Open Space Declaration that shall be filed in the Darien Land Records concurrent with the filing of the Subdivision Map. The open space parcel will be subject to a restrictive covenant to permanently preserve it as open space, and the wording and language of the conservation easement shall be subject to review and action by the Planning & Zoning Director after consultation with Town Counsel. The open space parcel shall be owned by the owner of the adjoining building lot, but shall be maintained as a separate parcel.
- E. Prior to preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- F. As part of the development of the newly created lot, a detailed storm water management/ Drainage Plan shall be submitted with any application for Zoning and Building Permits for construction on that lot (the submitted Stormwater Management Program was for conceptual plans, not what is actually to be constructed). The Plan shall be reviewed and acted upon by the Town Engineer prior to the issuance of a Zoning Permit. The Plan shall be implemented to assure that development will not have any negative impact upon the street or neighboring property(ies), and meet all of the requirements in the Darien Subdivision Regulations. Certification by a professional engineer of proper installation of said Drainage Plan shall be submitted to the Planning & Zoning Office prior to the issuance of a Certificate of Occupancy of the new residence.
- G. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plan noted in Item A, above, and any additional measures as may be necessary due to site conditions and/or the specific development plans. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- H. This subdivision approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the approval and/or permit as it deems appropriate.

All provisions and details of the plan, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials (the Open Space Declaration/ Conservation Easement, and the final mylar with Lot numbers and street addresses), shall be completed and submitted to the Planning and Zoning Department within 180 days of this action or

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this approval shall become null and void. This 180 day time frame is to allow for the relocation of the existing septic system which now serves the existing house on the proposed Lot 3A, which is located on the proposed Lot 3B.

Subdivision Application #606, Coastal Site Plan Review #202, 98 Pear Tree Point, LLC, 98 Pear Tree Point Road. Proposing to create two building lots from the 2.849+/- acre parcel and perform related site development activities within regulated areas.

A question was asked about the approval with conditions. Would this be an easement or a restriction? Mr. Damanti stated it would be a restriction on use and to strike out the word easement in the draft resolution.

Mrs. Forman made a motion to approve this application with the changes discussed. Mr. Spain seconded that motion. All were in favor. The resolution read as follows:

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ADOPTED RESOLUTION
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Application Number: Subdivision Application #606
Coastal Site Plan Review #202

Street Address: 98 Pear Tree Point Road
Tax Assessor's Map #60 Lot #22

Name and Address of Property Owner: 98 Pear Tree Point Road, LLC
c/o 98 Pear Tree Point Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Jeff McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to create two building lots from the 2.849+/- acre parcel and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Pear Tree Point Road, approximately 335 feet north of its intersection with Crane Road.

Zone: R-1 Zone

Date of Public Hearing: February 22, 2005

Time and Place: 8:00 p.m. Room 119 Darien Town Hall

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Publication of Hearing Notices

Dates: February 10 & 17, 2005

Newspaper: Darien News-Review

Date of Action: March 1, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
March 10, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Section 810 of the Darien Zoning Regulations and all applicable sections of the Subdivision Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted subdivision plans, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject parcel is 2.849+/- acres, and is located in the R-1 Zone. The proposed lots will be served by public sanitary sewer system and public water supply.
2. At the public hearing on this matter, a representative from the Pear Tree Point School explained that their outdoor play area/field is adjacent to the two lots to be created. The applicant agreed to establish a fifteen foot wide area adjacent to the north property line of each of the two lots in order to retain existing plantings so as to provide a buffer between these lots and the school. The fifteen foot area would start 50 feet in from Pear Tree Point Road. The applicant agreed that only dead or dying plantings will be removed from this area.
3. At the public hearing, the applicant explained that the houses shown on the submitted plans (a listed in Item A, below) are the actual houses to be constructed.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.

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7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #606 and Coastal Site Plan Review #202 are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Property & Topographic Survey for Two Lot Subdivision prepared for 98 Pear Tree Point LLC, by William W. Seymour & Associates, scale 1"=30', dated January 10, 2005.
 - Stormwater Management Plan prepared for 98 Pear Tree Point, LLC, by LBM Engineering, LLC, scale 1"=30', dated January 20, 2005.
- B. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- C. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- D. In accordance with Article IV Section C2 of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this resubdivision.
- E. The final mylar shall be revised to reflect a proposed restriction area adjacent to the Pear Tree Point School to the north of this property. That restriction area shall be fifteen feet wide, and shall start 50 feet in from Pear Tree Point Road, and extend for approximately 350 feet, to the end of the property. The restriction area shall allow only removal in this area of plantings which are dead, dying or diseased. Existing plantings may be supplemented by the property owners. Final restriction area wording shall be reviewed and approved by the Planning and Zoning Director and Town Counsel prior to its filing in the Darien Land Records concurrently with the Subdivision Mylar.
- F. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- G. The applicant noted that the houses shown on the submitted plans are the actual houses to be constructed on the two lots. As part of the development of each parcel, a detailed storm water management/drainage plan (which can be the Stormwater Management Plan submitted as part of this application) shall be submitted with any application for Zoning and Building Permits for construction on each lot. Each plan shall be implemented to assure that development will not have any negative impact upon the street or neighboring property(ies). A Professional Engineer shall submit certification that the required drainage has been

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properly implemented per the approved plans prior to the issuance of a Certificate of Occupancy of each residence.

- H. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted in Item A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- I. This subdivision approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Prior to commencing development activities involving or revised curb cuts into Pear Tree Point Road, the applicant shall obtain street opening approvals from the Darien Public Works Department. A sewer connection permit is also required for this project.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the approval and/or permit as it deems appropriate.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials (the restriction area shown on the final mylar with Lot numbers and street addresses and other required changes), shall be completed and submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Amendment of Business Site Plan #223, 390 Post Road, LLC, proposed tenant: Roundabout Designer Consignments and Closeouts, LLC, 1089 Boston Post Road. Proposing establish a high-end designer closeout and consignment shop in the space formerly occupied by Norwalk Savings Society.

Commission members noted that the draft resolution approves the project with conditions. All employees except for one will be parking in municipal lots on Center and Mechanic Streets. From now on, this should be made a policy when businesses move into this area, i.e., that employees should move out of parking lots for customers and public and that employee parking will be "secured off site". In this case, the owner/manager of business would be allowed one spot.

Mr. Spain moved to approve the resolution as drafted. Mrs. Forman seconded that motion, which was unanimously approved. The resolution read as follows:

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**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
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Application Number: Amendment of Business Site Plan #223

Street Address: 1089 Boston Post Road
Proposed tenant: Roundabout Designer Consignments and Closeouts, LLC
Assessor's Map #73 Lot #6

Name and Address of Applicant and
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason, Hill & Ambrette, LLC
23 Old King's Highway South
Darien, CT 06820

Name and Address of Property Owner: Frank Cavolo
390 Post Road, LLC
11 Holly Cove Circle
Stamford, CT

Activity Being Applied For: Proposing establish a high-end designer closeout and consignment shop in the space formerly occupied by Norwalk Savings Society.

Property Location: The subject property is located on the northwest side of Boston Post Road approximately 450 feet northeast of its intersection with Leroy Avenue.

Zone: CBD Zone.

Date of Public Hearing: February 1, 2005

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices
Dates: January 20 & 27, 2005

Newspaper: Darien News-Review

Date of Action: March 1, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of
Action: March 10, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials, the Commission finds:

1. The proposal is to establish a high-end designer closeout and consignment shop in the building formerly occupied by Norwalk Savings Society. This building has been formerly used as the Compleat Angler retail store; a French antiques retail store, and various banks (considered a commercial sales and service use). The applicant proposes to have retail space on both the first and second floors. No exterior changes to the building are being requested, other than for the installation of signs.
2. The applicant received approval to establish this use from the Zoning Board of Appeals on December 15, 2004 (Calendar No. 89-2004). That approval is hereby incorporated by reference. One stipulation in that approval is that "No more than one onsite parking space shall be utilized by property/store owners, employees or workers. Additional parking shall be arranged offsite as necessary."
3. The Architectural Review Board approved the proposed signage at its meeting of December 14, 2004. That approval is hereby incorporated by reference.
4. As explained during the public hearing, the business will have 2-3 employees present at any one time. The applicant's representative stated at the public hearing that employees will park off-site either in a municipal lot or make another arrangement. The application materials note that proposed hours of operation will be Monday-Saturday 10 a.m. – 5 p.m., and Sunday 12 noon – 5 p.m.
5. At the public hearing on this matter, nearby property owners questioned the adequacy of the existing parking lot for the proposed use. There are now six parking spaces on-site. The applicant noted at the public hearing that all deliveries will occur by van and/or sport utility vehicle, and thus, there is no need for a loading dock.
6. Pursuant to Sections 902 and 1025.3 of the Darien Zoning Regulations, the Planning and Zoning Commission finds that, adequate parking spaces have been provided to prevent on-street and off-street traffic congestion.

NOW THEREFORE BE IT RESOLVED that Amendment of Business Site Plan #223 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Because of the specific nature of the use, and its specific location within downtown Darien, the Commission places no restrictions on the hours of operation.

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- B. Based upon the specific business use and the representations that all deliveries will occur by van and/or sport utility vehicle, the Commission hereby waives the requirement for a loading space under Section 909 of the Darien Zoning Regulations. However, the business operators must schedule deliveries in a manner that does not unduly obstruct or limit parking for clients of this and/or nearby businesses.
- C. Consistent with the ZBA decision, the applicant shall have employees (other than a parking space for the owner/manager) park off-site.
- D. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (March 1, 2006). This may be extended as per Section 1028.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Discussion of the following items whose public hearings were closed on February 22, 2005:

Subdivision Application #496-A, Coastal Site Plan Review #203, Steven & Georgina Black, 209 Long Neck Point Road. Proposing to remove existing tennis court, divide existing 2.17+/- acre parcel into two building lots, and perform related site development activities within a regulated area.

The Commission briefly discussed this application, and instructed staff to draft a resolution for their consideration at a meeting in late March or sometime in April.

Proposed Amendment to the Darien Zoning Regulations, Special Permit Application #85-C, Stamford Health Systems, 85 Old King's Highway North. Proposing to amend Sections 210 and 703 of the Darien Zoning Regulations to define Medical Diagnostic Centers and to allow them by Special Permit within the DOR-1 and DOR-5 Zones, and to establish a Medical Diagnostic Center in a portion of the first floor of the existing building at 85 Old King's Highway North.

Mr. Damanti stated that he thought this was a fine project, and asked whether the Commission can amend the DOR-1 and DOR-5 zoning regulations to fit this Diagnostic Center. Mr. Kenny agreed that this was a great use of this space, and that the Commission needs to look at change. We should work with effective dates to approve this application along with the DOR changes.

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Mr. Keating stated that changing the existing zoning of the property from DOR-1 to DOR-5, to an OB (Office Business) Zone can change the complexion of the whole zone, and can also cause problems. The Commission would need a new Public Hearing if they wish to change the Zoning Map, changing this property to an Office Business (OB) Zone.

Mr. Ginsberg stated that in order to amend the Zoning Map, someone would have to prepare an application for the Commission's consideration. Mr. Damanti stated that he would like to approve this project, and that staff should prepare an application to change the zone from DOR-5 to OB. Other Commission members agreed.

Business Site Plan #83-B/Special Permit, Fairfield County Bank, 714 Boston Post Road.
Proposal to raze the existing structures on the premises, construct a new bank building with associated drive-through facilities and parking, and perform related site development activities.

Mr. Kenny's sightline concern with where a tree was situated was discussed, as well as this property being considered for the Model Block Sidewalk and Lighting. Mr. Damanti stated that he could have the developer pursue this with the Downtown Building Committee. Staff was instructed to draft a resolution for consideration by the Commission in late March or early April.

Proposed Modification of Special Permit Application #221-D, Cellco Partnership d/b/a Verizon Wireless, 4 Tower Drive. Proposing to install wireless telecommunications antennas on the existing concrete water tank beneath a new "cap" on the tank and to install an equipment shelter within the existing tank housing.

There was further discussion with raising this structure another foot, and whether to have it pointed or peaked, or to keep the tower structure flat. A resolution will be drafted by staff reflecting the Commission's comments and concerns.

Approval of Minutes

February 1, 2005	Public Hearing/General Meeting
February 8, 2005	General Meeting
February 15, 2005	Special Meeting

February 1 Meeting Minutes – Commission members gave typographical errors to Mr. Ginsberg for correction. Mr. Spain moved to accept the minutes with those typographical corrections. Mr. Kenny seconded that motion, which was approved by a vote of 4-0.

February 8 Meeting Minutes – It was noted that there was a correction to the "first floor" of the building at 22 Grove Street being 700-900 square feet. With that one change, and other typographical corrections, Mr. Kenny made a motion to approve the minutes as amended. Mrs. Forman seconded that motion, which was approved by a vote of 4-0.

February 15 Meeting Minutes – Mr. Spain made a motion to approve the minutes as written, and Mrs. Forman seconded that motion. Commission members then unanimously accepted the minutes by a vote of 4-0.

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2005 Town Plan of Conservation & Development

Discussion regarding:

- Review of all comments received thus far
- Revised draft of Environmental Resources Chapter & Appendix

Due to the late hour, Commission members agreed that this agenda item will be discussed at the next Planning & Zoning Commission Meeting.

The meeting was adjourned at 11:00 P.M.

Respectfully Submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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